

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. <sup>29</sup>25

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* NAKAYUKI YAMAMOTO and  
ITO SHIZUOKA

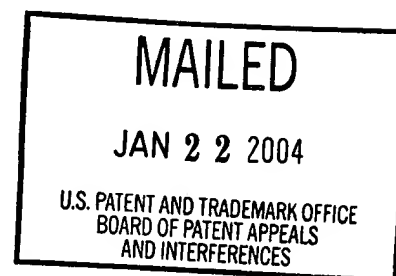
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Appeal No. 2004-0338  
Application No. 08/913,056

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ORDER REMANDING TO EXAMINER

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In response to a telephone conversation with Dianne E. Maggard, Paralegal Specialist at the Board of Patent Appeals and Interferences on January 7, 2004, counsel faxed a complimentary copy of a Reply Brief received at OIPE on December 15, 2003, in response to an Examiner's Answer (Paper No. 26) entered October 16, 2003.

In accordance with the revision effective December 1, 1997, Title 37, **Code of Federal Regulations**, § 1.193 states:

(b)(1) . . . The primary examiner must either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.

**Appeal No. 2004-0338**  
**Application 08/913,056**

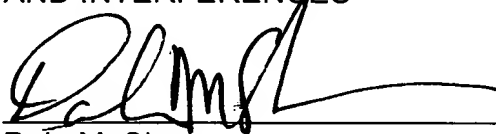
In view of this revision, the examiner must reopen prosecution in order to respond to the Reply Brief. Otherwise, if the examiner chooses not to respond to the arguments presented in the Reply Brief, the examiner needs to acknowledge receipt and entry of the Reply Brief and withdraw the Examiner's Answer (Paper No. 26).

Accordingly, it is

**ORDERED** that the application is remanded to the examiner for consideration and proper response to the Reply Brief, and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'Dale M. Shaw', is written over a horizontal line.

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